

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

MICHAEL T. FLYNN,

Defendant

Crim. No. 17-232 (EGS)

GOVERNMENT’S RESPONSE TO ORDERS OF THE COURT

The United States of America, by and through the U.S. Attorney for the District of Columbia, respectfully provides the following responses to the Court’s two Minute Orders issued on May 16, 2019. First, as discussed below, the government hereby attaches a transcript of the “voicemail recording” referenced in the Addendum to the Government’s Memorandum in Aid of Sentencing. Second, the government represents that there are no additional unredacted portions of the Special Counsel’s Report On The Investigation Into Russian Interference In The 2016 Presidential Election (hereinafter “the Report”) that are responsive to the Court’s second Minute Order.

I. Background

On May 16, 2019, the Court issued two Minute Orders, *sua sponte*, after the government had moved to unseal portions of certain records that the parties had relied on in their sentencing memoranda prior to the defendant’s initial sentencing hearing on December 18, 2018.

The Court first ordered the government to file on the public docket the transcript of the “voicemail recording” referenced in the Addendum to the Government’s Memorandum in Aid of Sentencing [ECF No. 75] (“Addendum”). The Court further ordered that the government

publicly file transcripts of any other audio recordings of the defendant, including but not limited to audio recordings of the defendant's conversations with Russian officials. The Court also ordered that the government submit to the Court's chambers audio versions of any such recordings.

The Court's second Minute Order directed that the government file the publicly-available version of the Report on the public docket by May 17, 2019; the government complied with that order. The Court further ordered the government to file on the public docket "an unredacted version of those portions of the [R]eport that relate to the" defendant.

II. Response

With respect the "voicemail recording" referenced in the Addendum, the government has attached a transcript of that recording. *See* Attachment 1. The government also clarifies that the "voicemail recording" is the same recording excerpted in Volume II of the Report—that is, a message left by the President's personal counsel for the defendant's attorneys. *See* Report, Volume II, p. 121. The defendant provided the recording to the government pursuant to his plea agreement. Simultaneously, the government is furnishing the Court's chambers with the audio version of the "voicemail recording." The government further represents that it is not relying on any other recordings, of any person, for purposes of establishing the defendant's guilt or determining his sentence, nor are there any other recordings that are part of the sentencing record.

With respect to the Report, the government represents that all of the information in the Report that the defendant provided to the Special Counsel's Office has been unredacted, as has all of the information in the Report that others provided about the defendant. In those sections where the defendant's conduct is discussed, limited remaining redactions pertain to the sourcing

of information, such as references to grand jury subpoenas. *See, e.g.*, Report, Volume I, pp. 169-72.

Respectfully submitted,

JESSIE K. LIU
U.S. Attorney for the District of Columbia

By: /s/_____

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Dated: May 31, 2019

CERTIFICATE OF SERVICE

I, Brandon L. Van Grack, certify that I served a copy of the foregoing electronically to counsel of record for the defendant on May 31, 2019.

/s/

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ATTACHMENT 1

Voicemail Recording

November 22, 2017

[Recording Begins]

Hey, Rob, uhm, this is John again. Uh, maybe, I-I-I'm-I'm sympathetic; I understand your situation, but let me see if I can't...state it in...starker terms. If you have...and it wouldn't surprise me if you've gone on to make a deal with, and, uh, work with the government, uh... I understand that you can't join the joint defense; so that's one thing. If, on the other hand, we have, there's information that...implicates the President, then we've got a national security issue, or maybe a national security issue, I don't know...some issue, we got to-we got to deal with, not only for the President, but for the country. So...uh...you know, then-then, you know, we need some kind of heads up. Um, just for the sake of...protecting all our interests, if we can, without you having to give up any...confidential information. So, uhm, and if it's the former, then, you know, remember what we've always said about the President and his feelings toward Flynn and, that still remains, but—Well, in any event, uhm, let me know, and, uh, I appreciate your listening and taking the time. Thanks, Pal.

[Recording Ends]